

**LODI CITY COUNCIL  
REGULAR CITY COUNCIL MEETING  
CARNEGIE FORUM, 305 WEST PINE STREET  
WEDNESDAY, AUGUST 5, 2009**

**C-1    Call to Order / Roll Call**

The City Council Closed Session meeting of August 5, 2009, was called to order by Mayor Hansen at 5:15 p.m.

Present:    Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent:    None

Also Present:    City Manager King, City Attorney Schwabauer, and City Clerk Johl

**C-2    Announcement of Closed Session**

- a)    Threatened Litigation: Government Code §54956.9(b); One Case; Potential Suit by Roy Beams against City of Lodi Based on Personal Injury
- b)    Actual Litigation: Government Code §54956.9(a); One Case; Nava v. City of Lodi, et al., San Joaquin County Superior Court, Case No. 39-2009-00211306-CU-PO-STK
- c)    Actual Litigation: Government Code §54956.9; One Application; Curtis Gokey v. City of Lodi, WCAB Case Number STK 0207649 (12/31/05)
- d)    Pursuant to Government Code §54956.9(c); Conference with Legal Counsel; Anticipated Litigation/Initiation of Litigation Regarding Potential Filing of Writ of Mandate against State Water Quality Control Board Challenging Wastewater Permit Order; One Potential Case

**C-3    Adjourn to Closed Session**

At 5:15 p.m., Mayor Hansen adjourned the meeting to a Closed Session to discuss the above matters. The Closed Session adjourned at 6:05 p.m.

**C-4    Return to Open Session / Disclosure of Action**

At 7:02 p.m., Mayor Hansen reconvened the City Council meeting, and City Attorney Schwabauer disclosed the following actions.

In regard to Item C-2 (a), negotiating direction was given.

Item C-2 (b) was not discussed.

In regard to Items C-2 (c) and C-2 (d), direction was given.

**A.    Call to Order / Roll call**

The Regular City Council meeting of August 5, 2009, was called to order by Mayor Hansen at 7:02 p.m.

Present:    Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Absent:    None

Also Present: City Manager King, City Attorney Schwabauer, and City Clerk Johl

B. Invocation - Reverend Alan Kimber, First United Methodist Church

C. Pledge of Allegiance

D. Presentations

D-1 Awards - None

D-2 Proclamations - None

D-3 Presentations

a) Presentation of Certificate of Recognition to the Lodi-Tokay Rotary Club for Sponsoring the Lodi International Wine Awards

Mayor Hansen presented a Certificate of Recognition to Mike Bennett, representing the Lodi-Tokay Rotary Club, in recognition of it sponsoring the Lodi International Wine Awards.

b) Quarterly Update by the Greater Lodi Area Youth Commission (COM)

Josh Gums and Beau Benko, members of the Greater Lodi Area Youth Commission, gave an update on the Commission's activities and accomplishments.

E. Consent Calendar (Reading; Comments by the Public; Council Action)

Council Member Mounce made a motion, second by Council Member Johnson, to approve the following items hereinafter set forth, **except those otherwise noted**, in accordance with the report and recommendation of the City Manager.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-1 Receive Register of Claims in the Amount of \$12,439,795.87 (FIN)

Claims were approved in the amount of \$12,439,795.87.

E-2 Approve Minutes (CLK)

The minutes of July 14, 2009 (Shirtsleeve Session), July 15, 2009 (Regular Meeting), July 21, 2009 (Shirtsleeve Session), and July 28, 2009 (Shirtsleeve Session) were approved as written.

E-3 Approve Specifications and Authorize Advertisement for Bids for Traffic Stripes for Various City Streets 2009 (PW)

Approved the specifications and authorized advertisement for bids for Traffic Stripes for Various City Streets 2009.

E-4 Accept Quarterly Investment Report as Required by Government Code Section 53646

(CM)

Accepted the quarterly report of the City of Lodi pooled money investments as required by Government Code Section 53646 and the City of Lodi Investment Policy.

E-5 Receive Quarterly Report of Purchases between \$5,000 and \$20,000 (CM)

Received the quarterly report of purchases between \$5,000 and \$20,000.

E-6 Ratify Aggregate Ultraviolet Lamp Purchases in Excess of City Manager Signature Authority (CM)

Ratified aggregate ultraviolet lamp purchases in excess of City Manager signature authority.

E-7 Adopt Resolution Authorizing the Purchase of Ultraviolet Light Disinfection Lamps for White Slough Water Pollution Control Facility from Coombs-Hopkins/DC Frost, of Walnut Creek (\$175,000) (PW)

Adopted Resolution No. 2009-101 authorizing the purchase of ultraviolet light disinfection lamps for White Slough Water Pollution Control Facility from Coombs-Hopkins/DC Frost, of Walnut Creek, in the amount of \$175,000.

E-8 Adopt Resolution Authorizing Purchase of Sodium Hydroxide for White Slough Water Pollution Control Facility from Sierra Chemical Company, of Sparks, Nevada (\$68,250) (PW)

Adopted Resolution No. 2009-102 authorizing the purchase of sodium hydroxide for White Slough Water Pollution Control Facility from Sierra Chemical Company, of Sparks, Nevada, in the amount of \$68,250.

E-9 Adopt Resolution Appropriating Funds and Concur with Emergency Repair of Irrigation Pump Motor Control Center Electrical Wiring at White Slough Water Pollution Control Facility (\$54,762) (PW)

Adopted Resolution No. 2009-103 appropriating \$54,762.41 and concurring with emergency repair of the irrigation pump motor control center electrical wiring at White Slough Water Pollution Control Facility; declaring a local emergency; and dispensing with the City's bidding requirements in accordance with Lodi Municipal Code Section 3.20.070.

E-10 Adopt Resolution Awarding Contract for Building Demolition at 17 East Elm Street Project to Double B Demolition, of Folsom (\$39,913) (PW)

Adopted Resolution No. 2009-104 awarding the contract for Building Demolition at 17 East Elm Street Project to Double B Demolition, of Folsom, in the amount of \$39,913.

E-11 Approve Entry Agreement for White Slough Water Pollution Control Facility to Allow Department of Water Resources to Conduct Non-Invasive Tests and Authorize the City Manager to Execute the Agreement on Behalf of the City of Lodi (CA)

Approved entry agreement for White Slough Water Pollution Control Facility to allow the Department of Water Resources to conduct non-invasive tests and authorized the City Manager to execute the agreement on behalf of the City of Lodi.

E-12 Adopt Resolution Approving Lease Extension to Lodi Adopt-A-Child for 100 East Pine

Street and Authorizing the City Manager to Execute the Agreement on Behalf of the City of Lodi (CA)

Adopted Resolution No. 2009-105 approving lease extension to Lodi Adopt-A-Child for 100 East Pine Street and authorizing the City Manager to execute the agreement on behalf of the City of Lodi.

E-13 Adopt Resolution Approving City of Lodi's Sewer System Management Plan (PW)

This item was pulled for further discussion by Council Member Hitchcock.

In response to Council Member Hitchcock, Water Services Manager Charlie Swimley stated the City is on a time line to adopt the plan, the plan is a living document and the result of a State Order, the order requires cities to have a plan to manage their sewer systems, there are approximately 11 components to the plan, and the plan will continue to evolve and be updated. Council Member Hitchcock requested a copy of the plan be provided to the City Council. The item was continued to a future meeting as a result.

Council Member Hitchcock made a motion, second by Council Member Mounce, to continue the matter to a future meeting pending receipt and review of the Sewer System Management Plan by the City Council.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-14 Adopt Resolution to Grant Another Designated Period for Two Years Additional Service Credit to the Street Maintenance Worker III Classification (CM)

Adopted Resolution No. 2009-106 to grant another designated period for two years additional service credit to the Street Maintenance Worker III classification.

E-15 Approve Response to 2008-09 San Joaquin County Grand Jury Report Regarding Information Technology Security (CM)

This item was pulled for further discussion by Council Member Mounce.

In response to Council Member Mounce, Mr. King stated the only parallel issue to the audit dealt with the security of servers and their placement underground and the annual Comprehensive Annual Financial Report response was similar to that of the Grand Jury response.

Council Member Mounce made a motion, second by Council Member Johnson, to approve the response to the 2008-09 San Joaquin County Grand Jury Report regarding information technology security.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

E-16 Adopt Resolution Establishing Guidelines for a First-Time Home Buyer Program and Authorizing an Application to the State Department of Housing and Community Development for \$800,000 of HOME Funding (CD)

This item was pulled for further discussion by Council Member Hitchcock.

In response to Council Member Hitchcock, Mr. King stated a small portion of the City, if any, may still be in the flood zone. Neighborhood Services Manager Joseph Wood stated staff will verify the flood information as necessary prior to submitting the application.

Council Member Hitchcock made a motion, second by Mayor Hansen, to adopt Resolution No. 2009-107 establishing guidelines for a first-time home buyer program and authorizing an application to the State Department of Housing and Community Development for \$800,000 of HOME funding.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

F. Comments by the Public on Non-Agenda Items

THE TIME ALLOWED PER NON-AGENDA ITEM FOR COMMENTS MADE BY THE PUBLIC IS LIMITED TO FIVE MINUTES.

The City Council cannot deliberate or take any action on a non-agenda item unless there is factual evidence presented to the City Council indicating that the subject brought up by the public does fall into one of the exceptions under Government Code Section 54954.2 in that (a) there is an emergency situation, or (b) the need to take action on the item arose subsequent to the agenda's being posted. Unless the City Council is presented with this factual evidence, the City Council will refer the matter for review and placement on a future City Council agenda.

Alan Kimber spoke in regard to invocations at City Council meetings, stating there are other views than the two represented at the prayer rally as it is possible to have prayer at City Council meetings that is consistent with the existing City policy.

David Diskin spoke in regard to invocations at City Council meetings, stating there is another view and he and his groups are in support of both the City and the City Council.

Bryan Davies spoke in regard to invocations at City Council meetings, stating he is in favor of invocations invoking Jesus Christ. He also suggested the Auburn Dam is an opportunity to create lower electricity rates for citizens.

Luna McDonald spoke in regard to invocations at City Council meetings, stating she is in favor of invocations invoking God.

Robin Rushing spoke in regard to invocations at City Council meetings, stating he is in favor of separation of church and state and supports diversity.

Cliff Donaldson spoke in regard to invocations at City Council meetings, stating he is a local pastor and appreciates the opportunity to pray freely in the manner to which he is accustomed as it is not meant to be offensive.

Randy Thomason spoke in regard to invocations at City Council meetings, stating he is in favor of religious freedom. He also provided an overview of case relevant to the subject matter and urged the Council to permit uncensored prayer.

Chaplain Klingenschmitt spoke in regard to invocations at City Council meetings, stating he is in favor of praying in the name of Jesus Christ and provided an overview of how other communities that he is familiar with have dealt with the same issue.

G. Comments by the City Council Members on Non-Agenda Items

Council Member Mounce provided a report on her attendance at the League of California Cities summit, stating there was discussion regarding a constitutional convention and the State will borrow Proposition 1A funds from local governments.

Council Member Hitchcock reported that the Lodi Unified School District began its school year and will continue to provide children with quality education despite challenges.

Mayor Hansen reported on an upcoming meeting with Congressman McNerney to address the river and erosion issues. He stated some funding was provided for County improvement projects and flood control. Mayor Hansen congratulated the neighborhoods participating in National Night Out on their success and also reported the new Lodi Energy Center continues to move forward.

H. Comments by the City Manager on Non-Agenda Items

City Manager King stated that, with respect to the League summit, there was some general understanding that there needs to be some mechanism to provide local governments and school districts more control. Mr. King stated the revised State budget includes a \$2 billion borrowing from cities and counties, the City impact for the property tax reduction is approximately \$1.2 million, staff will be coming back to Council to adjust and amend the budget accordingly, and the Legislature promised to securitize the funding which is difficult in light of the State's ratings. Mr. King also reported that the Public Works and Community Development counters will be closing during the lunch hour from 12:00 to 1:00 p.m. due to staff reductions beginning September 2, 2009.

In response to Council Member Johnson, Mr. King stated the assumption is that the State will not cover the cost of issuance if the cities are forced to refinance or borrow funds.

In response to Council Member Johnson, Mr. King stated he is confident that the gas tax will be taken in the next round of the State budget, at a cost of \$1 million to the City, because it was previously on the table.

In response to Council Member Johnson, Council Member Mounce confirmed that the League of California Cities is proceeding in taking legal action against the State as previously discussed.

In response to Mayor Hansen, Mr. King stated property taxes are paid twice a year and the City receives its proportionate share when payment occurs, the County pursues delinquent payments, and staff will continue to keep a more conservative approach with property tax accounting.

I. Public Hearings

I-1 Take Actions Pertaining to Affordable Senior Housing Project at 2245 Tienda Drive (CD)

a) Adopt Resolution Authorizing the City Manager to Execute an Exclusive Right to Negotiate

with Eden Development, Inc. Regarding Senior Housing Project at 2245 Tienda Drive

- b) Conduct Public Hearing to Consider the Adoption of a Resolution Authorizing the Reallocation of Available Community Development Block Grant and HOME Program Funding to Eden Development, Inc. for an Affordable Senior Housing Project

Notice thereof having been published according to law, an affidavit of which publication is on file in the office of the City Clerk, Mayor Hansen called for the public hearing to consider adoption of a resolution authorizing the reallocation of available Community Development Block Grant (CDBG) and HOME Program funding to Eden Development, Inc. for an Affordable Senior Housing Project.

City Manager King briefly introduced the subject matter of the development of the proposed senior affordable housing project by Eden Housing.

Neighborhood Services Manager Joseph Wood provided a presentation regarding the affordable senior housing project. Specific topics of discussion included authorization for an exclusive right to negotiation agreement, conducting a public hearing to reallocate CDBG and HOME funds, location of the project at 2245 Tienda Drive, former action regarding the proposed project, 24-month term of the proposed agreement, reallocation of CDBG and HOME funds with \$1.1 million dedicated to affordable housing project and staff recommendation regarding the same.

In response to Council Member Hitchcock, Mr. King stated that the general relationship the Council has previously discussed is providing federal funding assistance and land acquisition for fair market value. He stated the fiscal impact is the allocation of previously earmarked funds and land acquisition for fair market value and a purchase agreement will be brought back to Council in the future.

In response to Council Member Hitchcock, Mr. King stated project approval would occur when the terms of the loan and development disposition agreement are complete. He stated project approval and financial commitment is simultaneous.

Mayor Hansen opened the public hearing for public comment.

Ann Cerney requested clarification of the funding allocation. Mr. King provided a brief history of the proposed project, previous allocation of funds to an affordable housing project, Council approval for directing funding toward an affordable senior housing project, and the sale of proceeds for land being directed to the Roget Park development.

Mayor Hansen closed the public hearing after receiving no further public comment.

In response to Council Member Hitchcock, Mr. Schwabauer stated the law that governs use of park impact funds and grant money states that if property is sold, it must be put back into the park. Mr. King stated Roget Park is listed under the impact fee program. Council Member Hitchcock requested information regarding funding detail for the park and project.

In response to Mayor Hansen, Mr. Wood stated the funds must be expended by June 2010 and the County and City are comfortable with the expenditure time line for the proposed project.

Interim Community Development Director Rad Bartlam provided a brief overview of the size and scope of the proposed project specifically discussing the 80 unit, two-story project and public meetings with neighboring residents and property owners.

Mayor Hansen made a motion, second by Council Member Mounce, to adopt Resolution

No. 2009-108 authorizing the City Manager to execute an Exclusive Right to Negotiate Agreement with Eden Development, Inc. regarding affordable senior housing project at 2245 Tienda Drive and to adopt Resolution No. 2009-109 authorizing the reallocation of available CDBG and HOME Program funding to Eden Development, Inc. for the affordable senior housing project.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen

Noes: None

Absent: None

J. Communications

J-1 Claims Filed Against the City of Lodi - None

J-2 Appointments - None

J-3 Miscellaneous - None

K. Regular Calendar

K-1 Authorize the City Manager to Enter into a Professional Services Agreement with People Assisting Lodi Shelter (PALS) to Perform the Shelter's Administrative Functions as Directed in the 2009-10 Budget (CA)

City Manager King provided a brief overview of the proposed professional services agreement with People Assisting Lodi Shelter (PALS). Specific topics of discussion included the functions of office management at the shelter, proposed terms of agreement, and the revenue neutral result of agreement.

Lieutenant Steve Carrillo also discussed duties of PALS including processing and maintaining records, processing payment, generating data, adoptions, telephone answering training, staffing on weekdays and weekends, issuing licenses and collecting related fees, animal behavioral assessment tests, records for spay and neuter vouchers, budget account maintenance for animal shelter related accounts, ongoing duties of animal services officers, cleaning and upkeep of shelter, and ongoing effort to work together in implementing agreement.

In response to Council Member Johnson, Mr. Schwabauer stated the insurance requirements for a Fidelity bond are included because \$50,000 of the City funds is involved and there will be some handling of money.

In response to Mayor Hansen, Mr. King confirmed that if PALS brought in \$60,000 the additional revenue could be turned around and used for the services provided.

Council Member Mounce made a motion, second by Mayor Hansen, to authorize the City Manager to enter into a Professional Services Agreement with People Assisting Lodi Shelter (PALS) to perform the Shelter's administrative functions as directed in the 2009-10 budget.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and Mayor Hansen



Noes: None

Absent: None

K-2 Authorization to Solicit Bids for Artificial Turf Design Services (PR)

City Manager King briefly introduced the subject matter of the application of synthetic turf.

Interim Parks and Recreation Director Jim Rodems provided a PowerPoint presentation regarding the application of synthetic turf. Specific topics of discussion included the project overview, alleged health issues, hazardous chemicals, heat, bacteria, injuries, why synthetic turf, year-round usage, maintenance costs, replacement, and conclusions regarding the same.

In response to Council Member Mounce, Mr. Rodems confirmed there is approximately 115,000 square feet in covered turf for the Grape Bowl, the annual maintenance costs are approximately \$60,000, the current facility does not meet industry standards for maintenance, and there is an assumption that the water usage numbers are arrived at based on water meters.

In response to Mayor Hansen, Mr. Rodems stated softball play has not occurred at the facility for approximately four to five years.

In response to Council Member Hitchcock, Mr. Rodems stated a spreadsheet for annual cost savings was not prepared because there is so much disparity in what the savings would be in comparison to the existing costs. Mr. Rodems stated the annual savings could be approximately 85% to 90% and additional detail on coverage will be provided when the facility is engineered.

Discussion ensued amongst Council Member Hitchcock and Mr. Rodems regarding a variety of specific issues associated with the proposed installation of the synthetic turf including the availability of the product, the make-up of the product, various studies on synthetic turf, California rules and requirements for synthetic turf versus other states, the challenges associated with the product over the last 20-year period, recent advancement of materials and safety improvements in the industry, and maximizing field usage at the Grape Bowl during different seasons throughout the year. Mr. King also reviewed the conclusions of the synthetic turf field report completed for the City and County of San Francisco.

In response to Council Member Hitchcock, Mr. King stated he is not sure of why specifically the turf fields are not allowed in landfills other than the Environmental Protection Agency has concluded there are heat risks.

In response to Council Member Mounce, Mr. Rodems confirmed there are approximately 13 to 14 fields in the City including the smaller fields, generally there are no events scheduled in the Grape Bowl during June, July, and August, and an increase in requests for usage is expected if the turf field is installed.

In response to Council Member Mounce, Mr. Rodems stated the current numbers reflect 100% replacement of the field in 15 to 20 years and it is conceivable that only a portion of the field may be replaced at a lesser cost.

Discussion ensued between Council Member Mounce and Mr. Rodems regarding the arguments presented in the referenced studies, the lack of a cost analysis for the fields and maintenance of the same, risks associated with the product including heat concerns, the California study due in September 2010, and usage of the field during summer months.

Robin Rushing spoke in opposition to the proposed solicitation of bids for artificial turf design

services, stating the City should wait until the California study is completed. Ann Cerney requested additional information regarding possible bidders and contents of the request for proposals. Mr. Rodems stated the bids are solicited from engineering firms and there are three major companies in the industry that produce the field with the preferred materials.

In response to Mayor Hansen, Mr. King stated the current action is for soliciting engineering and design services, to be followed by a selection and qualification process, after which design specs will be generated and the bid process will be undertaken.

In response to Council Member Mounce, Mr. Rodems stated the proposed field is different from that used at the Manteca Field of Dreams because it is a heavier mix of sand.

A brief discussion ensued between Council Member Mounce and Council Member Johnson regarding the need for a business plan for the Grape Bowl facility.

In response to Mayor Hansen, Mr. Rodems stated the specific determinations as to what portion of the facility will be covered have not been made because those determinations will be made as a part of the engineering process.

Council Member Johnson made a motion, second by Mayor Pro Tempore Katzakian, to authorize solicitation of bids for artificial turf design services.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, and Mayor Hansen

Noes: Council Member Hitchcock, and Council Member Mounce

Absent: None

K-3 Adopt Resolution Nominating Representative from the City of Stockton to the Special City Selection Committee for Appointment to the San Joaquin Valley Air Pollution Control District Governing Board (CLK)

Council Member Mounce made a motion, second by Mayor Hansen, to adopt Resolution No. 2009-110 nominating Mayor Ann Johnston from the city of Stockton to the Special City Selection Committee for appointment to the San Joaquin Valley Air Pollution Control District Governing Board.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Hitchcock, Council Member Johnson, Council Member Mounce, and Mayor Hansen

Noes: Mayor Pro Tempore Katzakian

Absent: None

K-4 Approve Legal Expenses Incurred by Outside Counsel/Consultants Relative to the Environmental Abatement Program Litigation (\$3,500) (CA)

Mayor Hansen made a motion, second by Council Member Mounce, to approve legal expenses incurred by outside counsel/consultants relative to the Environmental Abatement Program litigation in the amount of \$3,500, as further detailed in the staff report.

VOTE:

The above motion carried by the following vote:

Ayes: Council Member Johnson, Mayor Pro Tempore Katzakian, Council Member Mounce, and

Mayor Hansen  
Noes: Council Member Hitchcock  
Absent: None

L. Ordinances - None

M. Adjournment

ATTEST:

Randi Johl  
City Clerk